



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 7270-99
28 March 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 18 February 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

18 Feb 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOXCB)

Subj: COMMENTS AND RECOMMENDATION ICO CW [REDACTED]

Ref: (a) BCNR memo of 5 Jan 00
(b) DOD Financial Management Regulation (Vol 7B)

Encl: (1) Excerpts from Shift Colors

1. Per reference (a), recommend BCNR not correct CW04 Fabian's record to reflect that he declined enrollment in the Survivor Benefit Plan (SBP) spouse coverage category, with an effective date of December 1998.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on 1 August 1995. He enrolled in SBP spouse and child coverage upon transferring to the Retired List.

b. CW04 [REDACTED] divorced his third spouse on 15 September 1997 and remarried on 16 December 1997 to [REDACTED]

c. . Per reference (b), a member who is participating with spouse or spouse and child coverage and who does not have an eligible spouse beneficiary may, upon remarriage: resume coverage, increase the level of coverage up to and including full retired pay, or elect not to have spouse coverage resumed. This election must be received by the Defense Finance and Accounting Service - Cleveland (DFAS-CL) within one year of the event. Additionally, the National Defense Authorization Act of FY 98 included a provision which allows those who have been retired for over two years a one time opportunity to disenroll from SBP between 17 May 98 and 16 May 99. [REDACTED] did not elect to terminate his SBP spouse coverage.

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

(PERS)

SI NO. 6/2/6

3. Shift Colors, a retiree quarterly newsletter mailed to all Navy retirees, provides SBP information in almost each issue. Excerpts are contained in enclosure (1).



M. P. WARDLAW

Head, Navy Retired Activities
Branch (PERS-622)